



FEDERAL ELECTION COMMISSION
Washington, DC 20463

December 20, 2011

**VIA ELECTRONIC MAIL
AND FIRST CLASS MAIL**

Mark L. Ornstein, Esq.
Killgore, Pearlman, Stamp,
Ornstein & Squires, P.A.
2 South Orange Ave., 5th Floor
Orlando, Florida 32801
Email: mlornstein@kpsos.com

RE: MUR 6054
Gary J. Scarbrough

Dear Mr. Ornstein:

Based on information ascertained in the normal course of carrying out its supervisory responsibilities, and information supplied by your client, Gary J. Scarbrough, the Federal Election Commission found reason to believe that Mr. Scarbrough violated 2 U.S.C. § 441f, a provision of the Federal Election Campaign Act of 1971, as amended. On December 16, 2011, the Federal Election Commission accepted the signed conciliation agreement submitted on your client's behalf in settlement of this violation. Accordingly, the file has been closed in this matter.

Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003) and Statement of Policy Regarding Placing First General Counsel's Reports on the Public Record, 74 Fed. Reg. 66132 (Dec. 14, 2009). Information derived in connection with any conciliation attempt will not become public without the written consent of the respondent and the Commission. See 2 U.S.C. § 437g(a)(4)(B).

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Mark L. Ornstein, Esq.
Page 2

Enclosed you will find a copy of the fully executed conciliation agreement for your files. Please note that the civil penalty is due within 30 days of the conciliation agreement's effective date. If you have any questions, please contact me at (202) 694-1341.

Sincerely,

A handwritten signature in black ink, appearing to read "M. Columbo", written in a cursive style.

Michael A. Columbo
Attorney

Enclosure
Conciliation Agreement

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BEFORE THE FEDERAL ELECTION COMMISSION DEC 20 AM 10:52

In the Matter of)

)

MUR 6054

OFFICE OF GENERAL
COUNSEL

Gary J. Scarbrough)

)

CONCILIATION AGREEMENT

This matter was initiated by the Federal Election Commission ("Commission") pursuant to information ascertained in the normal course of carrying out its supervisory responsibilities.

The Commission found reason to believe that Gary J. Scarbrough ("Scarbrough" or "Respondent") violated 2 U.S.C. § 441f.

NOW, THEREFORE, the Commission and the Respondent, having participated in informal methods of conciliation, prior to a finding of probable cause to believe, do hereby agree as follows:

I. The Commission has jurisdiction over the Respondent and the subject matter of this proceeding, and this agreement has the effect of an agreement entered pursuant to 2 U.S.C. § 437g(a)(4)(A)(i).

II. Respondent has had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. Respondent enters voluntarily into this agreement with the Commission.

IV. The pertinent facts in this matter are as follows:

1. At the time of the events in this matter, Scarbrough was the operating minority partner of Suncoast Ford, a car dealership located in Port Richey, Florida, that was organized as a Limited Liability Company and was treated by the Internal Revenue Service as a partnership. Scarbrough was responsible for the day-to-day operation of the dealership. Representative Vernon Buchanan ("Buchanan") controlled a majority ownership interest in Suncoast Ford

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1 through another limited liability company but was not involved in the day-to-day operation of the
2 dealership.

3 2. The Federal Election Campaign Act of 1971, as amended ("the Act"), provides
4 that no person shall make a contribution in the name of another person or knowingly permit his
5 or her name to be used to effect such a contribution. 2 U.S.C. § 441f. Section 441f prohibits
6 providing money to others to effect contributions in their names without disclosing the source of
7 the money to the recipient candidate or committee at the time the contribution is made, and it
8 applies to individuals as well as incorporated or unincorporated entities. 11 C.F.R.
9 § 110.4(b)(2); 2 U.S.C. § 431(11) (term "person" includes partnerships and corporations). This
10 prohibition also applies to any person knowingly helping or assisting any person in making a
11 contribution in the name of another, including "those who initiate or instigate or have some
12 significant participation in a plan or scheme to make a contribution in the name of another[.]"
13 11 C.F.R. § 110.4(b)(1)(iii); Explanation and Justification for 11 C.F.R. § 110.4(b)(1)(iii) at 54
14 Fed. Reg. 34,105 (1989).

15 3. During the 2007-2008 election cycle, a person could contribute no more than
16 \$2,300 to a candidate and his or her authorized committee per election. See 2 U.S.C. § 441a(a).

17 4. In March 2007, Scarbrough wrote a personal contribution check to Vern
18 Buchanan for Congress ("VBFC") in the amount of \$4,600, as did Suncoast Ford controller
19 Kenneth Lybarger ("Lybarger") and employees Harold H. Glover, III, ("Glover") and M. Osman
20 Ally ("Ally"). VBFC disclosed that it received \$4,600 from each of the four individuals.

21 5. Scarbrough directed Lybarger to issue reimbursement checks from Suncoast
22 Ford's account to Scarbrough, Lybarger, Glover and Ally.

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1 6. A routine review of Suncoast Ford's books by an auditor from the Buchanan
2 Automotive Group that represented Buchanan's ownership interest in the dealership revealed the
3 reimbursements.

4 7. Scarbrough contends that he did not know that the reimbursements were illegal
5 and that once he was informed that reimbursing contributions is prohibited by law, he took
6 corrective action by requesting that VBFC refund the reimbursed contributions.

7 8. On June 18, 2007, VBFC refunded all \$18,400 of the reimbursed Suncoast Ford
8 employee contributions.

9 V. Based on the facts set forth above in paragraphs IV.1-8, the Commission concluded that
10 there was reason to believe that Scarbrough violated 2 U.S.C. § 441f by assisting Suncoast Ford
11 with contributing to Vern Buchanan for Congress in the names of Scarbrough, Lybarger, Glover,
12 and Osman. In order to resolve this matter through conciliation, Scarbrough will not contest the
13 Commission's conclusion as set forth in this paragraph. Scarbrough will cease and desist from
14 violating 2 U.S.C. § 441f.

15 VI. Respondent will pay a civil penalty to the Federal Election Commission in the amount of
16 Eight Thousand Five Hundred Dollars (\$8,500), pursuant to 2 U.S.C. § 437g(a)(5)(A).

17 VII. The Commission, on request of anyone filing a complaint under 2 U.S.C. § 437g(a)(1)
18 concerning the matters at issue herein or on its own motion, may review compliance with this
19 agreement. If the Commission believes that this agreement or any requirement thereof has been
20 violated, it may institute a civil action for relief in the United States District Court for the District of
21 Columbia.

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1 VIII. This agreement shall become effective as of the date that all parties hereto have
2 executed same and the Commission has approved the entire agreement.

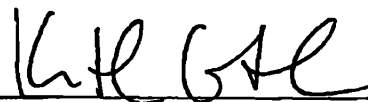
3 IX. Respondent shall have no more than 30 days from the date this agreement
4 becomes effective to comply with and implement the requirements contained in this agreement
5 and to so notify the Commission.

6 X. This Conciliation Agreement constitutes the entire agreement between the parties
7 on the matters raised herein, and no other statement, promise, or agreement, either written or
8 oral, made by either party or by agents of either party, that is not contained in this written
9 agreement shall be enforceable.

10 FOR THE COMMISSION:

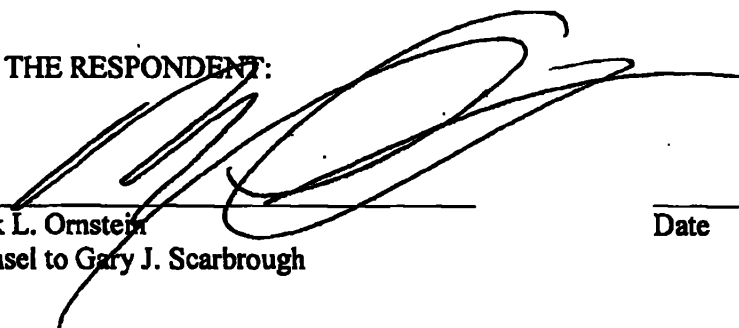
11 Anthony Herman
12 General Counsel

13 BY:

14 
15 Kathleen M. Guith
16 Acting Associate General Counsel
for Enforcement

12-20-11
Date

17 FOR THE RESPONDENT:

18 
19 Mark L. Ornstein
20 Counsel to Gary J. Scarbrough
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12-15-11
Date

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